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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Annual report of the United Nations High Commissioner for Human Rights

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I. Introduction

1. The present report, submitted to the Human Rights Council pursuant to General Assembly resolution 48/141, contains an overview of the work of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva, New York and through its country and regional human rights presences, from 1 December 2016 to 30 November 2017. It follows the thematic priorities that are reflected in the OHCHR Management Plan for the period 2014-2017. In the period under review, the Office also embarked on developing its next Management Plan, for the period 2018-2021.

2. As at 30 November 2017, OHCHR had 57 presences worldwide: 15 country or stand-alone offices; 12 regional presences; 13 human rights components of United Nations peace missions; and 17 human rights advisers embedded in United Nations country teams.

3. During the period under review, the High Commissioner conducted missions to El Salvador, Ethiopia, France, Germany, Guatemala, the Holy See, Ireland, Kuwait, Libya, Luxembourg, Oman, Peru, Slovenia, Sweden, Uruguay, the United States of America, and Uzbekistan. The Deputy High Commissioner visited Australia, Austria, Belgium, Canada, France, Germany, Indonesia, Japan, the Netherlands, Norway, Qatar, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The Assistant Secretary-General for Human Rights visited Belgium, Canada, the Central African Republic, Colombia, France, Honduras, Ireland, Kenya, Liberia, Mali, Morocco, Somalia, South Sudan, Switzerland, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

4. The period under review witnessed ongoing conflicts and humanitarian crises, with civilians continuing to bear the brunt. Globally, 65 million people have been compelled to leave their homes, with 22.5 million refugees among them, of whom half are children. Minority and vulnerable groups endured persecution and violence; violations of this type also drove massive population movements. Threats to democracy and the rule of law were also witnessed, including widespread actions to undermine civil society and human rights defenders. The threats posed by terrorist groups continued to morph and increase despite some military successes against them. There were continuing attempts to consolidate nationalist and protectionist positions, entailing risks to the multilateral system of cooperation between States. At the same time, there were some encouraging developments, including citizens and movements pushing back against different forms of discrimination and hatred, extremism and populism, signalling that individuals and groups are prepared to stand up for rights and freedoms for all.

II. Thematic priorities of the Office of the High Commissioner

A. Strengthening international human rights mechanisms

1. Treaty bodies

5. OHCHR facilitated the review by the treaty bodies of 158 State party reports; the adoption of views and decisions on more than 221 individual communications; visits to 10 States by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the issuance of seven general comments; and the initiation of eight confidential inquiries. The Office registered 297 complaints by individuals alleging violations of their human rights, but lack of adequate resources prevented timely action on them. A total of 1,274 communications were pending a decision by the treaty bodies. The Committee on Enforced Disappearances registered 442 urgent actions, of which 36 were discontinued or closed after the disappeared person was located. Webcasting of all treaty body sessions was extended to June 2018.

6. The treaty body capacity-building programme sponsored five train-the-trainers events on reporting under the treaties. State officials from some 70 States increased their knowledge and skills on the treaties and their reporting requirements. To date, more than

320 State officials from 135 States have benefited from the programme. The programme also launched a general reporting manual and trainers' guide, and is finalizing a corresponding online tool. The *OHCHR Guide on National Preventive Mechanisms (NPMs)* will be published at the outset of 2018, and trainers' guides on the covenants on civil and political rights, and economic, social and cultural rights are under preparation.

7. During its seventy-first session, the General Assembly considered the first biennial report of the Secretary-General on the status of the human rights treaty body system pursuant to its resolution 68/268 (A/71/118), and approved additional meeting time for the treaty bodies and almost half of the corresponding staff resources that were required in the light of paragraphs 26 and 27 of that resolution. Pending the granting of the further resources, during the next biennium, treaty bodies will not be able to deliver on all of the targets contained in the resolution, making it essential to initiate the review foreseen in paragraph 41 of resolution 68/268 well before 2020.

2. Human Rights Council

8. The Human Rights Council continued its heavy workload with 140 meetings in total. The number of interactive dialogues on reports and oral updates increased. Enhanced interactive dialogues also increased from one in 2015 to three (on the human rights of migrants and the situation of human rights in the Democratic Republic of the Congo and in South Sudan) in 2017. OHCHR supported the Human Rights Council Bureau in its efforts to address its workload in the light of the ceiling of the annual meetings that will be serviced by the United Nations Office at Geneva.

9. OHCHR continued to support the independent commissions of inquiry on the Syrian Arab Republic and Burundi, as well as the Commission on Human Rights in South Sudan, including by facilitating, at the request of the latter, a workshop on sexual and gender-based violence. It is also supporting new mandates created during the period under review, including an independent, international fact-finding mission to establish the facts and circumstances of human rights violations in Myanmar, in particular in Rakhine State, and a team of international experts to collect and preserve information and to forward conclusions to the judicial authorities of the Democratic Republic of the Congo to ensure accountability concerning the events in the Kasai regions. Pursuant to the request of the Human Rights Council in its resolution 36/31, the High Commissioner established a group of eminent international and regional experts to monitor and report on the situation of human rights in Yemen.

10. The Voluntary Technical Assistance Trust Fund to Support the Participation of Least Developed Countries and Small Island Developing States in the work of the Human Rights Council, administered by OHCHR, enabled 27 delegates, including 18 women from 26 countries, to attend Council sessions. Pursuant to Human Rights Council resolution 34/40,two briefings for delegations of least developed countries and small island developing States were held in New York, in October.

3. Universal periodic review

11. The third cycle of the universal periodic review began in May 2017. OHCHR facilitated the review of 28 Member States by the Working Group on the Universal Periodic Review at its twenty-seventh and twenty-eighth sessions.

12. The Voluntary Trust Fund for Participation in the Universal Periodic Review, administered by OHCHR, enabled representatives of 15 States under review to participate in the review process. In May 2017, OHCHR initiated briefings for delegations participating in the review of their States, aiming to provide information on follow-up processes and measures for the implementation of recommendations of human rights mechanisms, in particular the universal periodic review. The briefings were welcome by Member States and non-governmental organizations, and will be offered to delegations throughout the third cycle.

13. To facilitate the follow-up on and implementation of recommendations, the Office initiated a practice of communicating with Ministers for Foreign Affairs after the adoption of review outcomes on areas deemed to require special attention. The OHCHR-

administered UPR Voluntary Fund for Financial and Technical Assistance provided financial and technical assistance for activities in Antigua and Barbuda, Barbados, Botswana, Cambodia, Costa Rica, Dominica, the Dominican Republic, Grenada, Iraq, Lesotho, Paraguay, the Republic of Moldova, Saint Kitts and Nevis, Saint Lucia, and Trinidad and Tobago. If contributions to the Voluntary Fund increase, OHCHR would be able to respond even more effectively to such requests for assistance from Member States.

4. Special procedures

14. OHCHR continued to support 44 thematic and 12 country mandates. Comprehensive information on the activities of the special procedures is contained in the report on the twenty-third annual meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures (A/HRC/37/37 and Add.1).

5. Comprehensive follow-up to the work of human rights mechanisms

15. Multi-faceted efforts by OHCHR contributed to giving practical effect to the work of the human rights mechanisms. Efforts included supporting the establishment and work of national mechanisms for reporting and follow-up and the implementation of their recommendations. The Universal Human Rights Index was upgraded, and work proceeded on the launch of a national human rights recommendations tracking database in 2018.

16. OHCHR field presences continued to assist in establishing or strengthening national mechanisms for reporting and follow-up, including in Cape Verde, Lebanon and Papua New Guinea. OHCHR also supported the development of strategies and tools for the implementation of their recommendations, including in Argentina, Burkina Faso, Samoa and South Sudan. The Office played a key role in enhancing the engagement of civil society organizations with the mechanisms, for instance in Bolivia (Plurinational State of), Honduras, Iraq, Jamaica, Myanmar, the Republic of Korea, Trinidad and Tobago, and Tunisia, and their interaction with NMRFs, such as in Haiti, Serbia and the former Yugoslav Republic of Macedonia.

6. Humanitarian funds

17. The United Nations Voluntary Trust Fund on Contemporary Forms of Slavery and the United Nations Voluntary Fund for Victims of Torture, administered by OHCHR, awarded grants totalling $553,000 and $7.1 million to support redress and rehabilitation for more than 37,000 victims in 32 States, and for more than 45,000 victims in 75 States, respectively. The latter fund also made emergency grants, and convened an expert workshop on torture in the context of migration to highlight the particular challenges that arise in this field, including in relation to the identification of migrants who are victims of torture, obtaining redress for violations, and ensuring access to rehabilitation.

18. The Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment awarded grants amounting to $273,096 to support 11 prevention projects in nine States parties to the Optional Protocol.

B. Enhancing equality and countering discrimination

1. Discrimination against migrants

19. OHCHR enhanced its focus on the rights of people on the move and countering xenophobia against migrants, especially those in vulnerable situations. It played a key role in supporting and providing technical expertise to the consultations held in 2017 on the global compacts on safe, orderly and regular migration and on refugees. OHCHR also supported discussions in the Human Rights Council on issues relating to migration, including on large movements, unaccompanied migrant children, and climate change and migration.

20. The Office provided training, technical advice and legal expertise on migration. In addition, in September, an OHCHR team conducted a mission to El Salvador, Guatemala,

Honduras and Mexico to monitor the human rights of migrants. In follow-up to monitoring missions carried out to border and transit locations in Europe, OHCHR published *In Search of Dignity: Report on the human rights of migrants at Europe's borders*. In collaboration with the United Nations Support Mission in Libya, OHCHR published a report *Detained and dehumanised: report on human rights abuses against migrants in Libya*. In West Africa, OHCHR and the United Nations Office on Drugs and Crime (UNODC) developed a joint project to address human rights violations related to irregular migration, focusing on Mali, the Niger and Senegal. In Tunisia, it launched a project on strengthening migration governance and enhancing human rights at borders. OHCHR also monitored the Manus Regional Processing Centre (run by Australia) in Papua New Guinea, and conducted advocacy with relevant counterparts.

21. The Office sought to develop to a more positive public narrative on migrants and migration. In May, it held a multi-stakeholder meeting at which more than 50 experts discussed partnerships and skills to promote inclusion and confront anti-migrant narratives. During the sixth Annual Forum on Business and Human Rights, OHCHR co-hosted a session on the issue.[1]

2. Racism, racial discrimination, xenophobia and related intolerance

22. OHCHR provided support to the Durban follow-up mechanisms, in particular the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Ad Hoc Committee on the Elaboration of Complementary Standards and the Working Group of Experts on People of African descent.

23. The Office continued to update its database on practical measures to combat racism, racial discrimination, xenophobia and related intolerance in support of national efforts in this area. It organized a second regional meeting for Europe, Central Asia and North America within the framework of the International Decade for People of African Descent. The continued technical assistance of OHCHR to the Moldovan Equality Council contributed to its adoption of more than 50 decisions on discrimination cases. In Tunisia, OHCHR assisted the authorities to develop a bill on racial discrimination, and ensured the meaningful participation of civil society in the process.

3. Discrimination on the basis of indigenous or minority status

24. The effort made by OHCHR to combat discrimination based on indigenous or minority status included raising awareness about the importance of the protection of indigenous human rights defenders, including at the high-level event to mark the tenth anniversary of the Declaration on the Rights of Indigenous Peoples and in various country contexts; launching a video showing how indigenous rights advocates invoked the Declaration to achieve human rights progress; on the occasion of the twenty-fifth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, drawing attention to the achievements and challenges still faced in promoting and protecting minority rights; and supporting the tenth session of the Forum on Minority Issues in November 2017.

25. OHCHR also facilitated the launch of the new mandate of the Expert Mechanism on the Rights of Indigenous Peoples and organized an expert seminar in Chile to prepare the mechanism's forthcoming study on free, prior and informed consent of indigenous peoples.

26. The indigenous and minorities fellowship programmes sponsored 48 advocates from 46 indigenous and minority communities. The United Nations Voluntary Fund for Indigenous Peoples facilitated the participation of 94 indigenous representatives in human rights mechanisms.

27. In Cambodia, OHCHR facilitated the participation of indigenous representatives in consultations on draft legislation on agricultural land and other key issues. In the

[1] See www.ohchr.org/EN/issues/migration/pages/roleofbusiness.aspx.

Democratic Republic of the Congo, it organized two workshops with parliamentarians, the National Human Rights Commission and indigenous peoples to promote the adoption of a law to protect indigenous peoples' rights and to enhance their participation in institutions and processes. In Guatemala, it facilitated the participation of indigenous representatives in the formulation of a policy of the Office of the Attorney-General on access of indigenous peoples to justice. It supported dialogue in Paraguay aimed at drafting guidelines for indigenous women on their rights to participation and consultation, non-discrimination and land.

28. OHCHR worked with State authorities in Kyrgyzstan to increase transparency of recruitment procedures to promote equal opportunities for members of ethnic minority communities. It also gave training on minority rights, including in Myanmar and Sri Lanka; in Nepal, it launched a guidance tool on descent-based discrimination, together with United Nations and civil society partners.

4. Gender equality and women's rights

29. OHCHR pursued the integration of gender and women's rights perspectives in its work and the protection and promotion of women's human rights at various levels. At the sessions of the Human Rights Council, it organized five panel discussions in 2017 on topics ranging from maternal mortality and morbidity to the engagement of men and boys in preventing and responding to violence against women, to intersecting and multiple forms of discrimination and violence against women.

30. The Office also issued reports on ways to bridge the digital gender divide from a human rights perspective (A/HRC/35/9)and on the realization of the equal enjoyment of the right to education by every girl (A/HRC/35/11),and joined the EQUALS global partnership.[2] In collaboration with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Development Programme and UNODC, OHCHR produced a toolkit on access to justice for women. Together with the International Organization for Migration, it launched a video on unconscious bias in recruitment, to address a significant obstacle to equality and diversity.

31. The Office also conducted an independent evaluation of its regional gender advisers structure, which highlighted its unique effectiveness in achieving results at the regional level despite funding and staffing challenges.[3]

5. Discrimination on the basis of disability

32. In March 2017, OHCHR organized the annual debate of the Human Rights Council on the rights of persons with disabilities, which focused on equality and non-discrimination under article 5 of the Convention on the Rights of Persons with Disabilities, and a one-day intersessional seminar on the protection of the family and disability.

33. In Benin, efforts made by OHCHR led to the adoption of a law on the protection and promotion of the rights of persons with disabilities. In Serbia and the former Yugoslav Republic of Macedonia, OHCHR supported consultations on the implementation of article 33 of the Convention on the Rights of Persons with Disabilities. In Senegal, it strengthened a coalition of non-governmental organizations of persons with disabilities to engage with international human rights mechanisms. In Serbia, OHCHR facilitated the drafting of the first ever report on abuse and violence against women with disabilities in closed residential institutions, in collaboration with representatives of civil society and the national preventive mechanism. In the Transnistrian region of the Republic of Moldova, OHCHR engaged in capacity-building for more than 200 people on the rights of persons with disabilities and ways to counter discrimination against them. The Office assisted the West African

[2] Established by the International Telecommunications Union, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the International Trade Centre, GSMA and the United Nations University (see www.equals.org/).

[3] See www.ohchr.org/Documents/AboutUs/Evaluation/RegionalGenderAdvisorsStructure.pdf.

Federation of Persons with Disabilities to conduct a 10-year assessment of implementation of the Convention on the Rights of Persons with Disabilities by African countries.

6. Discrimination on the basis of sexual orientation and gender identity

34. The OHCHR-led Free and Equal campaign continued to promote equal rights for and fair treatment of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons globally, reaching hundreds of millions of people through media and national-level events in Albania, Brazil, Cambodia, Cabo Verde, Guatemala, Mongolia, Peru, Serbia, the former Yugoslav Republic of Macedonia and Ukraine. New campaign videos and factsheets launched in 2017 helped to raise awareness of bullying of LGBTI youth and the importance of culture and tradition being open to LGBTI persons.

35. The Office issued a report containing a set of standards of conduct for business on tackling discrimination against lesbian, gay, bi, trans and intersex persons, building on the Guiding Principles on Business and Human Rights, and reflecting inputs from businesses and civil society organizations in all regions.[4] The report was launched at events in New York, Mumbai, London, Paris, Washington D.C., Hong Kong, Geneva and Melbourne. In the first 10 weeks, 42 major companies announced their support for the initiative.

36. In Haiti, OHCHR conducted training for United Nations staff members, the Haitian National Police and civil society organizations on monitoring and reporting on human rights violations related to sexual orientation.

7. Discrimination against older persons

37. OHCHR assisted the Open-ended Working Group on Ageing by, inter alia, facilitating the participation of national human rights institutions in the eighth session of the Working Group. It also organized an informal consultation in New York on promoting the human rights of older persons in business.

8. Discrimination against people with albinism

38. In Malawi, OHCHR contributed to the development of a comprehensive United Nations programme to implement recommendations of the Independent Expert on the enjoyment of human rights by persons with albinism, following the mandate holder's visit to the country.

C. Combating impunity and strengthening accountability and the rule of law

1. Transitional justice

39. OHCHR facilitated dialogue on transitional justice issues. It convened a first public regional debate in South America on transitional justice, truth, reconciliation, and access to justice. In Haiti, it hosted a workshop on the fight against impunity for past crimes and transitional justice, in cooperation with domestic and international human rights organizations.

40. The Office also supported the establishment of transitional justice mechanisms. In the Plurinational State of Bolivia, the truth commission became operational in 2017, pursuant to a law drafted by civil society organizations, victims and relatives, with the support of OHCHR. In Colombia, OHCHR supported the rights of victims and the establishment of judicial and non-judicial mechanisms to address serious violations of international law committed during the conflict. In the Gambia, it supported the Government's submission of a bill to the National Assembly aimed at establishing a truth and reconciliation commission. OHCHR gave technical advice on gender integration for the text, as well as on women's meaningful participation in all transitional justice processes.

[4] See www.unfe.org/standards/

41. OHCHR contributed to seeking accountability for human rights violations and reconciliation. Together with the United Nations Stabilization Mission in Central African Republic, it finalized a mapping report documenting serious violations of human rights and humanitarian law committed in the Central African Republic between 2003 and 2015, providing a factual basis for transitional justice processes. In El Salvador, it trained a unit established by the Attorney General to conduct investigations into human rights violations perpetrated during the civil war. In Guatemala, the Office supported civil society and victims in the Zepur Sarco trial, which resulted in the conviction of military officials for sexual exploitation of indigenous women, and provided advice on the implementation of reparations. It assisted the establishment of specialized chambers in Tunisia to adjudicate cases of gross violations of human rights, and continued to assist civil society to monitor the transitional process and advocate for victims' rights. In follow-up to Human Rights Council resolutions on promoting reconciliation, accountability and human rights in Sri Lanka, OHCHR supported the Government's efforts to archive materials from the national consultations, and initiated consultations on reparations for victims of conflict-related sexual violence.

42. In Kosovo,[1] OHCHR worked closely with the International Committee of the Red Cross and authorities in Pristina and Belgrade to clarify the fate of 1,658 persons who went missing during the 1998-2000 conflict. In that context, OHCHR supported the establishment, in March 2017, of the first multiethnic resource centre on missing persons.

2. Death penalty

43. In May 2017, the Office organized an expert group meeting in Geneva on the linkages between the application of the death penalty and the right to equality and non-discrimination, and in October 2017, a high-level event at United Nations Headquarters on transparency and the death penalty. It advised and advocated with States that have retained the death penalty, notably for the establishment of a moratorium pursuant to General Assembly resolution 67/176 and the implementation of international standards guaranteeing the protection of the rights of those facing the death penalty, including in Belarus, Iran (Islamic Republic of), Iraq, Malaysia, Mauritania, Pakistan, the Philippines, Saudi Arabia, the United States of America and Palestine. OHCHR engaged with the Government of Maldives to urge retention of the long-standing de facto moratorium on the death penalty. It also supported the United Nations Resident Coordinators Office for Barbados and the Organization of Eastern Caribbean States in hosting a seminar in September 2017 on attitudes towards the death penalty in the Caribbean.

3. Counter-terrorism and prevention of violent extremism

44. Working with the Office of Counter Terrorism, and as Chair of the Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism of the Counter-Terrorism Implementation Task Force, OHCHR moved forward with the delivery of a global human rights capacity-building project for law enforcement. Furthermore, as part of its engagement with the Task Force, it presented commissioned research on the integration of gender and women's rights perspectives into programmes on preventing and countering violent extremism.

45. OHCHR undertook a regional study on human rights and the challenges of preventing violent extremism, with reference to Burkina Faso, Mali, the Niger and Senegal, recommending that basic economic and social needs be addressed and that governance in marginalized areas be improved. It participated in capacity-building initiatives, including in a joint project with UNODC for officials and civil society representatives in countries in the Lake Chad Basin. It also collaborated with UNODC in East Africa in the development of training modules on the gender dimensions of criminal justice responses to counter terrorism and to train staff of the Permanent Secretariat of the Group of Five for the Sahel to ensure respect for human rights in counter-terrorism-related projects.

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[1] All references to Kosovo in the present document should be understood in full compliance with Security Council resolution 1244 (1999) and without prejudice to the status of Kosovo.

46. In Kosovo, OHCHR trained local stakeholders to monitor and address cases involving violations of human rights in relation to counter-terrorism. In Kyrgyzstan, it trained human rights lawyers and defenders in the context of government efforts to counter terrorism and to prevent violent extremism. In Tunisia, it assisted the National Commission on Counter-Terrorism in monitoring the implementation of the national strategy on counter-terrorism and its compliance with international human rights standards. It also supported the Directorate General for Prisons and Rehabilitation on the prevention of violent extremism in prisons.

4. Administration of justice and law enforcement

47. In 2017, OHCHR and UNODC published the *Resource book on the use of force and firearms in law enforcement* to support States in their efforts to develop and implement more effective, accountable and human rights-based law enforcement policies.[6] In Fiji, OHCHR supported police efforts to review and develop policies and strengthen internal accountability mechanisms. Advocacy by OHCHR contributed to the decision by the Government of Guatemala to withdraw the army from citizen security functions by early 2018. The Office provided substantive inputs to a conference on the use of force by law enforcement in Jamaica, organized in June 2017 by the Independent Commission of Investigations.

48. Pursuant to Human Rights Council resolution 30/7, OHCHR presented a report on non-discrimination and the protection of persons with increased vulnerability in situations of deprivation of liberty (A/HRC/36/28) to the Council at its thirty-sixth session. In September 2017, OHCHR co-sponsored a high-level event at the seventy-second session of the General Assembly on the theme "Torture during interrogations: illegal, immoral and ineffective". Pursuant to Council resolution 31/31, it convened a seminar in October on the implementation of effective safeguards to prevent torture and other cruel, inhuman or degrading treatment or punishment during police custody and pretrial detention.

49. OHCHR advocated for legislative enactments and reforms necessary to ensure that States comply with international human rights standards in the administration of justice, including in Honduras, Nepal and Sri Lanka. In March 2017, following sustained advocacy by OHCHR, the President of Afghanistan issued by decree a law on the prohibition of torture and the new Penal Code that both contain a definition of torture that is consistent with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In September, the President endorsed an annex to the said law providing for the right of victims of torture to bring claims for redress before civil and criminal courts. In Lebanon, advocacy by OHCHR contributed to the adoption of legislation to establish a national preventive mechanism and to criminalize torture.

50. In Argentina, OHCHR organized a workshop with judges to discuss the role the judiciary can play in upholding women's rights by addressing wrongful gender stereotyping. An OHCHR workshop held in Eritrea for judicial and law enforcement officials focused on the issues of arrest, pre-trial detention and administrative detention; the treatment of detainees and prisoners; investigations, fair trial and appeal; and protection and non-discrimination of persons deprived of liberty. In Saudi Arabia, OHCHR organized two training workshops on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) for government and other justice and law enforcement officials, and supported the Saudi Human Rights Commission in the development of two training manuals on investigating allegations of torture.

51. In the Democratic Republic of the Congo, Mauritania, Tunisia, among other countries, OHCHR continued to monitor detention facilities and to provide technical advice to improve conditions of detention. In the Democratic Republic of the Congo, OHCHR supported 18 joint investigation teams with the military justice officials and 19 mobile court hearings aimed at facilitating victims' access to justice.

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[6] Available at www.ohchr.org/Documents/ProfessionalInterest/UseOfForceAndFirearms.pdf

52. OHCHR participated in discussions organized by the Commission on Narcotic Drugs on the human rights commitments made in the outcome document of the special session of the General Assembly held in 2016 on the world drug problem. It provided support to Colombia in developing a project for applying a human rights-based approach to drug policy, including the eradication and substitution of illicit crops.

D. Integrating human rights in development and the economic sphere

1. Human rights in development

53. The Office played an active role in the context of the Secretary-General's reform initiative, including by co-chairing the results group of the United Nations Development Group on the theme "Giving voice to Common values and norms" and its leadership results group, contributing to the development of the United Nations leadership model, subsequently adopted by the Development Group, and the strengthening of the Resident Coordinator accountability mechanism. It supported the development of a human rights leadership strategy under the Human Rights Working Group of the Development Group and the plan of action for the Human Rights Up Front initiative. It co-led a process that resulted in the 2017 landmark publication *Leaving no one behind: Equality and Non-Discrimination at the Heart of Sustainable Development – A Shared UN System Framework for Action.* It also supported the development and adoption of the new United Nations Development Assistance Framework Guidance and its companion pieces.

54. The Office continued its efforts to integrate all human rights, including the right to development, in the implementation of the 2030 Agenda for Sustainable Development. It contributed to raising public awareness on the linkages between human rights and the Sustainable Development Goals, including at the session of the high-level political forum on sustainable development held in 2017. In the context of its dialogue series on the Sustainable Development Goals and human rights, it focused on the Goals and the rights to an adequate standard of living, social security, and health. Under Goal 16, OHCHR developed methodologies for compiling data on indicators on killings and other attacks on, inter alia, human rights defenders, conflict-related deaths, and the independence of national human rights institutions.

55. OHCHR continued to promote the integration of human rights in climate action, including in the guidelines for implementation of the Paris Agreement and the negotiations of the twenty-third Conference of the Parties to the United Nations Framework Convention on Climate Change.

56. Jointly with the Economic Commission for Africa and the Friedrich-Ebert Foundation, OHCHR finalized a human rights impact assessment of the Continental Free Trade Area agreement in Africa, which made recommendations on negotiation, monitoring and evaluation of the agreement, more specifically in the areas of agriculture, livelihoods and informal cross-border trade. It pursued engagement with multilateral development banks, and provided substantive input to the design of the complaints handling mechanism and public information policy of the Asian Infrastructure Investment Bank. As part of the Inter-Agency Task Force on Financing for Development, OHCHR engaged in the follow-up on the Addis Ababa Action Agenda.

57. OHCHR also worked to strengthen collaboration between the human rights and statistical communities in Colombia, Kenya, the Philippines, South Africa, the United Kingdom of Great Britain and Northern Ireland, and Palestine. It also assisted national human rights institutions and national statistical offices worldwide, including the National Bureau of Statistics and the National Human Rights Commission in Kenya, in finding ways to formalize the sharing of knowledge and collaborating on data collection, dissemination and analysis.

58. In January 2017, OHCHR trained parliamentarians from Benin, Burkina Faso, Côte d'Ivoire, Guinea, Mali, the Niger, Senegal and Togo on human rights, gender and budget planning. In Palestine, OHCHR supported the formulation of a national development plan, grounded in human rights, for 2018-2021. In July 2017, OHCHR and the League of Arab

States organized a second regional conference on human rights in the implementation of the 2030 Agenda for Sustainable Development in the Arab region.

2. Economic, social and cultural rights

59. OHCHR continued its efforts to promote and protect economic, social and cultural rights. OHCHR and the Food and Agriculture Organization of the United Nations developed an information note on the relationship between the governance of small-scale fisheries and the realization of the right to adequate food. The note explains how implementing and monitoring the right to food of such communities directly contributes to the achievement of the 2030 Agenda and the Sustainable Development Goals. In Malawi, OHCHR supported the revision of a food and nutrition bill pursuant to a recommendation made by the Special Rapporteur on the right to food (see A/HRC/25/57/Add.1).

60. The High-level Working Group on the Health and Human Rights of Women, Children and Adolescents, co-convened by OHCHR and the World Health Organization (WHO) in May 2016, issued its report, entitled "Leading the realization of human rights to health and through health", in May 2017,[7] in which it made nine recommendations spanning three areas, namely, the creation of an enabling environment, partnering with people and strengthening evidence and accountability. As a follow-up, on 21 November 2017, the organizations signed a framework of cooperation to drive implementation of the recommendations. The Office also contributed to inter-agency initiatives, such as the joint United Nations statement on ending discrimination in health-care settings,[8] and the Consolidated guideline on sexual and reproductive health and rights of women living with HIV,[9] led by WHO. It supported regional and national capacity-building sessions for civil society on utilizing the human rights mechanisms on issues related to sexual and reproductive health and rights, including in East Africa and Central America, and in the former Yugoslav Republic of Macedonia.

61. In follow-up to its work on urbanization and the New Urban Agenda, the Office increased its collaboration with regional and local authorities. During the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) in Quito, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context launched the "Shift" initiative with the Deputy High Commissioner for Human Rights and United Cities and Local Governments. Its aim is to mobilize global actors to change the perception of housing as a commodity to a human right. In the Middle East and North Africa, the already high number of forcibly displaced persons has grown exponentially in recent years owing to large-scale violence. OHCHR has developed guidance on land rights and returnees, with partners including the Office of the United Nations High Commissioner for Refugees and the Norwegian Refugee Council. In Mauritania, it engaged with the World Bank on the integration of the principles of participation and non-discrimination in their joint project with the Government on the reform of land rights.

62. In Serbia, OHCHR produced a policy paper on the social implications of public procurement, particularly regarding the employment of persons with disabilities and marginalized minorities. To enable adjudication of economic social and cultural rights in courts, OHCHR Tunisia developed a manual for judges and lawyers, while OHCHR Uganda held training sessions for the Supreme Court, the Court of Appeal and the High Court.

63. Pursuant to Human Rights Council resolution 33/20, on 7 July 2017 OHCHR convened a seminar on ways to prevent, contain and/or mitigate the detrimental impact of the damage to or destruction of cultural heritage on the enjoyment of human rights. The

[7] Available at www.ohchr.org/Documents/Issues/Women/WRGS/Health/ReportHLWG-humanrights-health.pdf.

[8] Available from www.who.int/mediacentre/news/statements/2017/discrimination-in-health-care/en/.

[9] Available from www.who.int/reproductivehealth/publications/gender_rights/srhr-women-hiv/en/.

seminar benefited from the active participation of special procedure mandate holders and members of the Committee on Economic, Social and Cultural Rights (A/HRC/37/29).

3. Business and human rights

64. OHCHR assisted the Working Group on the issue of human rights and transnational corporations and other business enterprises in developing a legally binding instrument. Furthermore, in November, it organized the sixth Annual Forum on Business and Human Rights, guided and chaired by the Working Group. More than 2,500 participants from some 130 countries participated in the more than 60 sessions, making it the largest global event on business and human rights ever held.

65. Pursuant to Human Rights Council resolution 32/10, OHCHR launched the second part of the Accountability and Remedy Project, focusing on State-based non-judicial mechanisms for access to remedy in cases of business-related human rights abuse,. The Office also sought to ensure responsible business involvement and respect for human rights in the context of mega-sporting events through its engagement in an advisory group on this topic, and advocated for corporate responsibility to respect human rights in such areas as information and communications technology, and banking and finance.

66. OHCHR provided support and training on the implementation of the Guiding Principles on Business and Human Rights in, inter alia, Chile, Germany, Malaysia, Thailand, the United Republic of Tanzania and Viet Nam. In Madagascar, it assisted in the formulation of a tripartite charter for sustainable development and respect for human rights in the framework of private investments, involving civil society actors, local communities, the private sector and the State, and in discussions within the framework of the revision of the mining code on human rights and the exploitation of natural resources, and sector-based policy.

E. Widening the democratic space

1. Support for civil society, including human rights defenders

67. In the light of continuing and increasing attacks on civic space and public participation, OHCHR advocated for expanded civic space, the repeal of restrictive legislation and policies, an end to human rights violations against civil society actors – in particular those speaking out on such issues as sexual and reproductive health and rights, and discrimination and violence against LGTBI persons – and remedy and redress for victims.

68. Pursuant to Human Rights Council resolution 33/22, OHCHR organized four regional seminars to discuss ways to realize the right to participate in public affairs, which will inform draft guidelines thereon. It intensified its work on human rights in the digital space, including by increasing its engagement on these issues, co-organizing sessions at the AI for Good Global Summit, organized by the International Telecommunication Union, on artificial intelligence and its implications for regulations, ethics, privacy and security, and participating in events with the technology industry and other stakeholders.

69. Through the Faith for Rights initiative, OHCHR has been engaging with faith-based actors to reflect on the deep connections between religions and human rights. In March 2017, theistic, non-theistic and atheistic participants in an OHCHR expert workshop adopted the Beirut Declaration and 18 commitments, which articulate how "faith" can stand up for "rights." The Declaration addresses incitement to religious hatred and the human rights responsibilities of religious leaders. In Tunisia, with technical support from OHCHR, the independent high authority for audio-visual communication developed a national barometer to monitor incitement to hatred, based on the Rabat Plan of Action (see A/HRC/22/17/Add.4, appendix). This model is being replicated in Côte d'Ivoire and Morocco.

70. With regard to the issue of protection of persons cooperating with the United Nations on human rights, while there has been some progress, the Secretary-General, in his report on cooperation with the United Nations, its representatives and mechanisms in the

field of human rights (A/HRC/36/31), referred to 39 cases of reprisals in 29 countries, the largest number ever witnessed. At the 2017 Dublin Platform on human rights defenders, held in October, OHCHR expressed serious concern at the current backlash against civil society and human rights defenders.

71. In October 2017, OHCHR and the Inter-American Commission on Human Rights launched a joint action mechanism to contribute to the protection of human rights defenders in the Americas. OHCHR also supported women human rights defenders in various Middle East and North African countries in establishing a regional network.

72. In the Democratic Republic of the Congo, OHCHR addressed 524 cases of threats and other human rights violations against human rights defenders, journalists and other media professionals, as well as cases of victims and witnesses of human rights violations committed during the period under review.

73. OHCHR continued to advocate for laws and mechanisms to protect human rights defenders, for instance in Brazil, the Democratic Republic of the Congo, Guatemala, Kenya, Mauritania, Myanmar, Thailand, Timor-Leste and Tunisia, and in Central America. In Guatemala, OHCHR provided technical assistance for the development of a public policy on attacks against human rights defenders, working with the Office of the Attorney General for the development of an internal protocol. OHCHR strengthened protection programmes for civil society, including in Brazil, Burkina Faso, the Democratic Republic of the Congo, Fiji, Guatemala, Kenya, Mauritania, Myanmar, Nepal, Thailand, Timor-Leste and Tunisia. In Burkina Faso and Togo, it provided advice to civil society actors on the creation of a mechanism and on recourse procedures. The Office provided training for civil society organizations, for instance in Kazakhstan, Kyrgyzstan and Tajikistan, to improve public participation. It supported the National Syndicate of Tunisian Journalists in establishing a monitoring unit on the safety of journalists, whose main responsibilities are to publish reports on attacks against journalists and to provide victims with legal advice and assistance.

2. Electoral processes

74. In collaboration with the Carter Centre, OHCHR sought to bring together the electoral observation and human rights communities to strengthen a human rights-based approach to elections. At the final meeting, held in December 2017, participants endorsed a human rights and elections plan of action.

75. OHCHR worked with UN-Women and the Economic Community of West African States to facilitate greater participation of women in elections in 14 States in West and Central Africa.

76. In Afghanistan, in order to increase the participation of women in the elections to be held in 2018 as candidates, voters and staff, OHCHR produced a reference report (non-public), based on 13 country-wide consultations with 364 women and men who shared their views on factors limiting or facilitating women's participation in electoral processes, that was disseminated among government and other stakeholders.

3. Support for parliaments and national human rights institutions

77. The updated *Human Rights: A Handbook for Parliamentarians* was reissued by OHCHR and the Inter-Parliamentary Union in October 2017.

78. OHCHR provided advice and/or assistance for the establishment or strengthening of some 70 national human rights institutions, including in the Democratic Republic of the Congo, Iceland, Kuwait, Lebanon, Madagascar, Seychelles, South Sudan, Turkmenistan and Uzbekistan. It also conducted regional activities in support of national human rights institutions, for instance with the Arab and African networks of national human rights institutions, and the Central Asia support initiative for national human rights institutions.

79. OHCHR continued to serve as the secretariat of the Global Alliance of National Human Rights Institutions and its Subcommittee on Accreditation, which reviewed 28 institutions during the reporting period.

4. Human rights education and training

80. The Office supported the World Programme for Human Rights Education, which provides a global framework for action and advocacy at all levels. In November 2017, it co-organized with the Equitas International Centre for Human Rights Education and four academic partners a conference on the theme "Bridging our diversities" in Montreal, Canada, at which some 300 practitioners, scholars and defenders from more than 50 States discussed good practices and strengthening cooperation.

81. In Madagascar, OHCHR supported the creation of 10 human rights documentation centres within State institutions. In Mauritania, it assisted the Ministry for National Education to develop modules for human rights education in primary and secondary schools. In South Africa, it funded and facilitated a workshop, led by the South African Human Rights Commission, the Department of Basic Education and the Department of Justice, to develop modules for inclusive education for teachers. As a result, human rights education is to become a compulsory subject in public education. In Uganda, the Office supported the Ministry of Education and Sports and the National Curriculum Development Centre to integrate human rights into the curriculum of all secondary schools.

F. Early warning and protection of human rights in situations of conflict, violence and insecurity

1. Human rights, peace and security

82. OHCHR efforts on peacebuilding and sustaining peace included, in September 2017, the organization, with the assistance of Sierra Leone, Costa Rica and the Netherlands, of a high-level side event of the seventy-second session of the General Assembly on sustaining peace by strengthening human rights in international law. It also briefed the Peacebuilding Commission on the situation in Burundi and Sri Lanka, and worked on peacebuilding projects in several countries supported by the Peacebuilding Fund.

83. OHCHR monitored the status of implementation of the human rights due diligence policy by the United Nations system, and continued to give advice on its implementation by United Nations partners in the Central African Republic, the Democratic Republic of the Congo, Lebanon, Liberia, Nepal, Pakistan, Somalia, South Sudan and the Sudan (Darfur).

84. The Office contributed to the pre-deployment human rights screening of proposed military personnel, and also to the design of pre-deployment human rights training for police and military personnel designated for peacekeeping missions. It continued to work with the Department of Peacekeeping Operations to integrate human rights into training for civilian and uniformed peacekeepers. It delivered in-mission training of trainers on conflict-related sexual violence, directed at focal points from six peace missions,[10] in cooperation with the Department of Peacekeeping Operations, the Department of Political Affairs and the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict.

85. OHCHR continued to monitor and report publicly on critical human rights concerns, including violations by security forces and armed groups. It conducted a joint study with the Department of Peacekeeping Operations and the Department of Political Affairs that documents the positive impact of public reporting on human rights and the broader mandate of peace missions, and makes proposals for deepening this impact.

86. OHCHR also continued to strengthen its cooperation with the African Union, including by supporting the establishment of a comprehensive human rights and conduct and discipline compliance framework for African Union peace operations, and through

[10] Namely, the United Nations Multidimensional Integrated Stabilization Mission in Mali, the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, the United Nations Assistance Mission for Iraq, the African Union-United Nations Hybrid Operation in Darfur and the United Nations Mission in South Sudan.

joint efforts by the African Union and the United Nations to improve the integration of human rights into planning of peace operations.

2. Emergency response and early warning

87. Through its contingency fund and internal rapid deployment roster, OHCHR dispatched teams to Bangladesh, to conduct fact-finding activities on the situation of the Rohingya population in Myanmar; Angola, to undertake fact-finding on violence perpetrated in the Kasai, Democratic Republic of the Congo; Barbados, to provide advice on the integration of a rights perspective into humanitarian responses; the Congo, to conduct an assessment of the situation of human rights; Guatemala, to strengthen its country office; Mauritania, to support the country office in providing advice on a human rights-based approach to humanitarian affairs and development; and Qatar, to gather information on the impact of the Gulf crisis on human rights. OHCHR also employed its emergency capacity to conduct remote human rights monitoring of Turkey. It participated in two United Nations deployments to support the Director General of the United Nations Office at Nairobi with human rights expertise in the context of the presidential elections in Kenya, and also deployed human rights officers to Togo to assist the United Nations Resident Coordinator in the context of the political crisis.

88. In the context of the Human Rights Up Front initiative, OHCHR continued to work on the implementation of the common United Nations information management system, focusing on further developing and supporting stocktaking exercises by United Nations actors in Guinea-Bissau, Honduras, Mauritânia, Somalia and Ukraine.

3. Sexual and gender-based violence, trafficking and related exploitation

89. OHCHR organized an expert panel discussion on general recommendation No. 35, adopted by the Committee on the Elimination of Discrimination against Women, on gender-based violence against women, and arranged for its dissemination through video messages.

90. The Office supported the development and roll-out of the Secretary-General's strategy to improve the Organization's system-wide approach to preventing and responding to sexual exploitation and abuse, issued in March 2017 (see A/71/818). It gave advice on human rights and inputs into the main areas of the strategy, namely (a) putting the rights and dignity of victims first; (b) ending impunity; (c) engaging with civil society and external partners; and (d) improving strategic communications for education and transparency. OHCHR also contributed to the development of several policy documents, such as a United Nations policy on balancing confidentiality and accountability when receiving and handling allegations of sexual exploitation and abuse, and a voluntary compact between the Secretary-General and individual Member States on preventing and addressing sexual exploitation and abuse.

91. In Guatemala, OHCHR provided training for members of the Public Prosecutor's Office and the judiciary on international human rights standards and the principle of due diligence concerning femicide and violence against women. In Haiti, the Office facilitated training for the Directorate for Civil Protection (*Direction de la protection civile*) on sexual violence in conflicts and emergency. In Tunisia, the advice and advocacy provided by OHCHR contributed to the adoption of a human rights-compliant law on the elimination of violence against women. It also supported initial efforts to implement the law – the first of its kind in the region – particularly with respect to ensuring access to justice for victims.

4. Humanitarian action

92. OHCHR actively engaged in United Nations efforts to ensure respect for international human rights and humanitarian law in crisis settings. Human rights issues were increasingly raised in the discussions held by the subsidiary bodies of the Inter-Agency Standing Committee.

93. OHCHR continued to integrate human rights into the overall efforts of protection clusters, humanitarian country teams and humanitarian coordinators, including in relation to the crisis in the Syrian Arab Republic. It also continued to lead the protection cluster in

Palestine, and participated in the work of protection clusters or working groups in, inter alia, Guatemala, Haiti, Iraq, Mauritania, Mexico, Myanmar, Panama, Papua New Guinea, Somalia, Timor-Leste, Ukraine and Yemen, as well as in the Pacific region. In the wake of hurricanes Irma and Maria, OHCHR supported the Caribbean Disaster Emergency Management Agency in its recovery planning discussions with the countries affected.

94. OHCHR developed methodological guidance on the specificities of monitoring, assessing and analysing human rights in emergencies.

III. Management and administration

95. The decision of the General Assembly at the end of 2017 to apply substantial across-the-board reductions to nearly every part of the United Nations budget for the biennium 2018-2019 leaves the already chronically underfunded human rights pillar of the United Nations in a very difficult position. At the best of times, the human rights work carried out by the United Nations is severely underresourced, with OHCHR stretching itself to implement its mandate as fully as possible. With a reduction of 10 per cent in estimated requirements in most budget lines, and reaching as high as 25 per cent of the resources for the treaty bodies and special procedures, OHCHR will face difficulties in implementing many of the activities mandated by the General Assembly and the Human Rights Council, and risks soon having to report on areas where it could not fulfil a mandate as requested.

96. In addition, the General Assembly, at its seventy-second main session, again deferred the proposed regional restructuring of OHCHR to its resumed session. This modest initiative is intended to bring more of the limited resources of OHCHR closer to its stakeholders at the regional level, so as to make even more effective use of them. If approved, it would be implemented from within existing resources. Savings that will accrue from the move of posts to lower-cost duty stations can be reallocated to increase outreach and technical cooperation activities. The High Commissioner hopes that the Fifth Committee will conclude its consideration of this common sense measure now, so as to equip the Office to proceed more effectively.

IV. Conclusions

97. **The United Nations High Commissioner for Human Rights and the Office of the High Commissioner continued to defend universal human rights and the multilateral human rights system as an antidote to global uncertainties and existing and emerging conflicts and crises, and to act as key pillars for sustainable growth and development. During the period under review, OHCHR continued its support for the human rights mechanisms, and carried out an extensive work programme to assist States in complying with their human rights obligations. It also acted on behalf of rights-holders and victims of human rights violations, in partnership with a range of stakeholders striving to safeguard and uphold human rights.**

98. **OHCHR continues to be a global voice for equality and non-discrimination, and all human rights for all. The Office must be equipped and assisted to respond to both conflict and crisis situations, and emerging global, regional and national challenges, including with respect to ensuring human rights in the digital space, defending civic space, civil society and human rights defenders, and achieving the 2030 Sustainable Development Agenda. The High Commissioner hopes that Member States and other stakeholders will extend to OHCHR all possible assistance and support to enable it to carry out its mandate effectively in support of States and rights-holders worldwide.**

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Annual report of the United Nations High Commissioner for Human Rights on the activities of the Office of the High Commissioner in Guatemala

In the present report, the United Nations High Commissioner for Human Rights describes the situation of human rights in Guatemala from 1 January to 31 December 2017. The report focuses on justice and the fight against impunity; security; human rights in the context of migration and internal displacement; the situation of indigenous peoples, women, children, lesbian, gay, bisexual, transgender and intersex persons, and persons with disabilities; attacks against human rights defenders and journalists; and economic and social rights.

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Annual report of the United Nations High Commissioner for Human Rights on the activities of the Office of the High Commissioner in Guatemala*

I. Introduction

1. The present report was prepared pursuant to the agreement between the Government of Guatemala and the Office of the United Nations High Commissioner for Human Rights (OHCHR), signed on 10 January 2005 and extended in September 2017 for an additional period of three years. It gives an overview of the situation of human rights in Guatemala from 1 January to 31 December 2017, based on monitoring conducted by OHCHR in Guatemala. It also highlights some of the activities carried out by OHCHR during that period. In November 2017, the United Nations High Commissioner for Human Rights visited Guatemala.

II. National context

2. Guatemala continues to face structural inequality and discrimination. It has a Gini coefficient of 0.63 (one of the worst in the world),[1] while some 60 per cent of the population still live in poverty (reaching 76.1 per cent in rural areas, 79.2 per cent among indigenous peoples and 69.2 per cent among children under 15).[2] Some 46.5 per cent of children under 5 years of age (61.2 per cent among indigenous children) suffer from chronic malnutrition.[3] Women have a lower human development index than men.[4] Efforts by the Government to address this situation have been partly hindered by corruption. The Central American Institute for Fiscal Studies estimates that 20 per cent of the 2015 national budget was affected by corruption, which in turn had an impact on the enjoyment of human rights.[5]

3. In 2017, investigations led by the Office of the Attorney General, with the support of the International Commission against Impunity in Guatemala (CICIG), continued to reveal complex criminal networks linking public and private sectors, and involving the highest levels of government (A/HRC/34/3/Add.1, para. 3).[6] These networks carried out deliberate actions to control or influence State institutions for personal benefit and to ensure impunity. A total of 351 high-level public officials, at the local and national levels and in all three branches of the State, are being investigated for corruption.[7] The failure of Congress to adopt outstanding reforms to the law on immunities could constitute an obstacle to the prosecution of officials. The appointment of a new Attorney General, in May 2018, could mark a turning point, determining whether the fight against corruption and impunity will continue or will be reversed.

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* Circulated in the language of submission and Spanish only.

[1] United Nations Development Programme (UNDP), "Desigualdad y pobreza limitan desarrollo humano en las regiones del Norte y Occidente", 2 November 2017.

[2] See Segeplán, *Agenda 2030 para el desarrollo sostenible: Examen nacional voluntario, 2017: Guatemala*, p. 66.

[3] Ibid., p. 92.

[4] UNDP, *Más allá del conflicto, luchas por el bienestar*, Informe Nacional de Desarrollo Humano 2015/2016, Guatemala, 2016, p. 24.

[5] Instituto Centroamericano de estudios fiscales (ICEFI), *La corrupción: Sus caminos e impacto en la sociedad y una agenda para enfrentarla en el Triángulo Norte Centroamericano*, 2017, pp. 35 and 234.

[6] See also International Commission against Impunity in Guatemala (CICIG), Décimo informe de labores de la CICIG, 2017.

[7] Information received from CICIG for the period from 2007 to 31 December 2017. See also A/HRC/31/3/Add.1, para. 12 and A/HRC/34/3/Add.1, para. 16.

4. Strong resistance was put up against advances made in the aforementioned anti-corruption investigations by people wishing to maintain the status quo and to hold on to their privileged positions.[8] On 25 August, the Office of the Attorney General and CICIG announced the results of investigations into illegal campaign financing of three political parties, including the ruling party.[9] Two days later, the President of the Republic, Jimmy Morales, declared the Head of CICIG, Iván Velásquez, persona non grata. The Constitutional Court suspended this decision (file 4182-2017) shortly thereafter following injunctions filed by civil society representatives and the Ombudsman (files 4179-2017, 4151-2017 and 4180-2017).

5. Furthermore, on 11 September 2017, Congress rejected requests to lift the immunity of the President preventing the pursuit of investigations against him for illegal campaign financing. Two days later, Congress pushed through legal reforms (decrees 14-2017 and 15-2017) shielding its members from investigations for corruption and allowing for the potential commutation of detention sentences for more than 400 crimes with a maximum penalty of 10 years, including in relation to corruption. Following public outcry, these initiatives were withdrawn on 15 September. In this politically tense context, some public officials in key cabinet positions submitted their resignation, expressing disagreement with the Government's actions.

6. In the face of such developments, peaceful protests were held in August around the country denouncing a "corruption pact" and calling for the resignation of corrupt officials. Protests have since been held on a regular basis.[10] In the context of these movements, diverse sectors have proposed important structural reforms, both institutional and legal, to guarantee democracy, including the revision of the law on elections and political parties and the law on civil service, and an independent judicial system (see A/HRC/34/3/Add.1, paras. 16 and 100). Public calls for greater accountability of local authorities were also made. Youth movements, including the Association of University Students of the national public university (presided by a woman elected in the first democratic process in 17 years) played a leading role in this process. Journalists and independent media outlets were instrumental in reporting on corruption despite the hostile political context.

7. In the meantime, investigations into corruption led by the Office of the Attorney General and CICIG continued, included into the "Pandora's Box" case, concerning allegations of a criminal network operating within the penitentiary system by ex-military officer Byron Lima (now deceased) (A/HRC/34/3/Add.1, para. 10). This case involves investigations concerning Alvaro Arzú, former president and current mayor of Guatemala City, and Moises Galindo, defence attorney for former military officers accused of crimes against humanity, including the genocide case against former head of State Efraín Ríos Montt.

8. The lack of consensus in Congress prevented progress in the legislative agenda in key human rights areas, including in reforms necessary to consolidate progress in the fight against impunity and corruption, notably pending constitutional reforms in the area of justice presented in October 2016 (A/HRC/34/3/Add.1, para. 5). In February, debates on reforms stalled during discussions on the recognition of indigenous jurisdiction; indigenous authorities eventually withdrew their proposal on indigenous jurisdiction in order to allow progress in other issues. In April, the debates broke down again during discussions on the model for the separation of administrative and jurisdictional functions of the Supreme Court of Justice. Furthermore, Congress rejected provisions of the bill affirming the principles of gender equality in access to justice and the legal profession. In December, Congress did not reach consensus regarding the national budget for 2018. It also failed to elect the new rapporteurs of the national mechanism for the prevention of torture (which has therefore been virtually inoperative since April).

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[8] See CICIG, Décimo informe (see footnote 6).

[9] See CICIG, Informe de Financiamiento de la Política en Guatemala, 2015.

[10] Office of the United Nations High Commissioner for Human Rights (OHCHR), "Respeto de los derechos humanos fortalece las experiones democráticas", 16 September 2017.

9. Indigenous peoples played a key role in the development of proposals to promote their collective rights, including to strengthen their participation in democratic processes through adequate and proportional representation; to ensure their inclusion in decision-making through consultation mechanisms; to recognize indigenous community radios; and to protect traditional knowledge and cultural expressions. Indigenous women weavers formulated a draft law for the protection of their collective intellectual property. These proposals have not, however, been prioritized by Congress.

10. The case of the Hogar Seguro Virgen de la Asunción shelter (see A/HRC/22/54/Add.1, para. 89) illustrated the persisting inadequacy of protections for vulnerable children and youth. In the fire that broke out on 8 March in the shelter, run by the Secretary of Social Welfare, 41 girls died and 15 were injured, including 11 seriously burned, after they had been locked in a tiny classroom overnight as a disciplinary measure.

11. Cases of forced evictions linked to land tenure insecurity, involving mainly indigenous communities, resulted in human rights violations and humanitarian challenges. Evicted communities include those of Laguna Larga (Peten), Chabilchoch (Izabal) and La Cumbre (Alta Verapaz). Women, including pregnant women, older persons and children, were particularly affected (see also A/HRC/34/3/Add.1, paras. 47 and 63).

12. Much remains to be done to ensure the democratic transformation of the country as envisaged by the peace agreements. Twenty years on, 50.4 per cent of the agreements have yet to be implemented, particularly those relating to inequality and non-discrimination.[11] The lowest rate of implementation concerns the agreements on identity and indigenous peoples (only 19.49 per cent implemented) and on socioeconomic aspects and the agrarian situation (34.39 per cent).[12] As the High Commissioner stated during his visit to Guatemala in November, the country is at a crossroads, "facing the choice between forging ahead with the necessary reforms to create a modern democratic State, based on the rule of law and guided by human rights principles, or remaining with the old unjust system where the few profit at the expense of the majority."[13]

III. Advances and challenges in key human rights areas

A. Justice and the fight against impunity

13. Legal reforms are required to guarantee an independent, effective and inclusive justice system, and to sustain progress made in the fight against corruption and impunity. The approval by Congress, in September, of the reform to the law on the judicial career (decree 32-2016) (see A/HRC/34/3/Add.1, para. 16) ordered by the Constitutional Court (file 591-2016), addressed a legal gap relating to the election of the members of the Judicial Career Council (*Consejo de la Carrera Judicial*), ensuring a clearer separation between the administrative and legislative functions of the Supreme Court of Justice. Reforms to depoliticize the selection of key judicial authorities did not, however, advance (see A/HRC/34/3/Add.1, para. 15). The need to reform the normative framework of the nominating committees was illustrated in a case, presented in January by the Attorney General and CICIG, in which a judge had allegedly been bribed to support the election of certain high court judges.[14]

14. In criminal cases, including high-profile cases and those relating to crimes committed during the internal armed conflict, the excessive filing of injunctions (among other practices) appears to have been a way used to delay resolutions. Between January and October, 2,957 injunctions were filed before the Constitutional Court, which dismissed 72 per cent of injunctions reviewed in 2017. Reforms to the law on injunctions (writ of

[11] Secretaría de la Paz, Agenda Política de la Paz 2017-2026, 2017, pp. 17-18.

[12] Ibid.

[13] OHCHR, "Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at the end of his mission to Guatemala", press release, 19 November 2017.

[14] See CICIG, Décimo informe (see footnote 6), p. 20.

amparo) are required to allow prompt trials while ensuring the necessary judicial guarantees (see A/HRC/31/3/Add.1, paras. 12 and 16, and A/HRC/34/3Add.1, para. 16).

15. Judicial independence was undermined by patterns of pressure from within and outside the judicial system.[15] Some judges who denounced interference by their colleagues were subjected to spurious complaints to internal disciplinary bodies,[16] such as Judge Carlos Ruano, who was subjected to a disciplinary procedure in March for alleged ethical breaches after denouncing pressure by a magistrate of the Supreme Justice Court (later stripped of her immunity). The case was eventually dismissed.[17] Constitutional Court judges who issued crucial resolutions to maintain the constitutional order also denounced pressures, including requests to lift their immunity and smear campaigns targeting them. Judges, public prosecutors and lawyers in several high-profile cases were also subjected to such treatment, as were victims and their families, and supporting organizations.

16. Lobbying campaigns were conducted to influence public opinion and pressure high courts. In the case of two projects (the Oxec hydroelectric dam and the San Rafael mine) that were allegedly approved despite a lack of consultation with the indigenous peoples affected, some actors within the private sector took out paid public advertising campaigns calling upon courts not to suspend project licences, arguing that a suspension would have a negative impact on economic development.

17. Some progress was made in judicial proceedings for crimes committed during the internal conflict. In July 2017, an appeals court (file 01076-2012-00021) confirmed the historic decision made in the Sepur Zarco case, sentencing two ex-military officers for crimes against humanity (rape and sexual slavery) against Q'eq'chi women (A/HRC/34/3/Add.1, para. 7).[18] In March, a judge concluded there was sufficient evidence to prosecute five ex-military officials for crimes against humanity related to the enforced disappearance, in 1981, of a child, Marco Antonio Molina Theissen, and for sexual violence against his sister, Emma (A/HRC/34/3/Add.1, para. 19). In October, the Ixil genocide case resumed after years of delays (see A/HRC/34/3/Add.1, para. 20), following the decision of the Constitutional Court, in 2013, to revoke the judgment against Ríos Montt. In May, the Centre for Legal Action for Human Rights filed a malfeasance complaint against three former judges of the Constitutional Court for reversing the 2013 judgment.

18. Most transitional justice cases suffered delays, including the Dos Erres (see A/HRC/22/17/Add.1, para. 37) and Ixil genocide cases, partly due to the filing of 42 and 37 injunctions, respectively. Delays increase the risk of depriving the victims of justice, especially considering the advanced age of defendants and survivors. In the CREOMPAZ case (see A/HRC/34/3/Add.1, para. 6), an injunction was filed in September before the Constitutional Court to reverse the motion to open trial issued in 2016, which had excluded reference to 94 of the alleged victims, potentially depriving them of access to justice. In March, the immunity of one of the defendants in this case – a member of Congress and founder of the ruling party – was lifted, but he avoided arrest and has been a fugitive since.

19. Effective measures to ensure reparation to victims of the armed conflict and non-recurrence, including by strengthening the funding and effectiveness of the National Reparations Programme, remain crucial. The Government is finalizing the process of individual reparations in the Chixoy case, while collective reparations measures have been subjected to delays (A/HRC/34/3/Add.1, para. 21).

20. Efforts were continued to eliminate cultural barriers in access to justice (see A/HRC/34/3/Add.1, para. 24). In particular, the Constitutional Court continued to strengthen its jurisprudence concerning the recognition of indigenous jurisdiction; for example, in June, it upheld the decision of an indigenous authority recognizing the

[15] Organization of American States (OAS), "IACHR wraps up on-site visit to Guatemala", press release, 4 August 2017.

[16] OHCHR, "OACNUDH-Guatemala resalta la importancia de garantizar la independencia judicial y llama al Estado a garantizar la protección de las juezas y los jueces", press release, 11 January 2017.

[17] See CICIG, Décimo informe (see footnote 6), p. 20.

[18] Ibid.

collective property rights of an indigenous woman in Nebaj (file 943-2017). Moreover, in May, the Office of the Attorney General adopted a policy on access to justice for indigenous peoples and established a secretariat in charge of its implementation, monitoring and evaluation. The unit on indigenous peoples established within the judiciary was strengthened and upgraded to the level of secretariat.

21. In July, a new director of the National Institute of Forensic Science (INACIF) was elected. The important work of that body in the collection of scientific evidence in judicial processes has been hampered by inadequate financial and human resources, in the face of a growing demand for specialized services.

B. Security

22. High levels of violence persist, fuelled by discrimination, inequality, easy access to weapons, organized crime, impunity and the legacy of violence of the armed conflict. In 2017, 4,553 violent deaths were recorded, down 2.4 per cent against 2016, except in some departments, such as Guatemala.[19] On the other hand, violent deaths of women increased by 8 per cent (662 cases). The vast majority of violent deaths (3,301) continued to be caused by firearms, in the absence of an effective arms control policy. The Office of the Ombudsman (*Procurador de los Derechos Humanos*) reported that, between January and October, 28 people were killed by lynching (40 per cent more than in 2016).

23. According to information provided by INACIF, in 2017, 80 per cent of violent deaths in Guatemala were concentrated in 10 (of the State's 22) departments, while the regions inhabited by a majority of indigenous peoples, such as Totonicapán, Sololá, San Marcos and Quiché, where traditional indigenous justice is applied, have the lowest rates of homicide. At the same time, certain cases of sanctions applied in the framework of indigenous justice underscored the need to ensure compatibility with human rights norms and standards.

24. In January, the Ministry of the Interior, in line with the peace agreements, announced an "operationalization plan" for the withdrawal of 4,400 soldiers from "citizen security squadrons" in 53 municipalities. While this process was scheduled to be finalized by 31 December 2017, the Ministry of Defence requested that soldiers remain in squadrons in 11 locations around the country for three additional months.

25. In 2017, the number of National Civil Police officers reached nearly 40,000, including 4,000 new recruits. Challenges nonetheless remain to provide for citizen security, including addressing widespread violence against women. In 2017, the parliamentary committee on security and justice drafted a bill to reform the law on the National Civil Police, with the participation of the police and civil society (see A/HRC/34/3/Add.1, para. 28). Joint operations by the police and the Office of the Attorney General to combat extortion and illegal private security services were noteworthy.

26. The police played an important role in guaranteeing respect for human rights in the context of peaceful protests in August and September,[20] while the Ministry of the Interior has been revising police protocols on the progressive use of force. Some cases of the disproportionate use of force were nonetheless reported, including in March, when special police forces were ordered to capture children who had escaped the Hogar Seguro Virgen de la Asunción shelter, and in June, in Casillas, San Rafael Las Flores, in the case of people demonstrating against the El Escobal mine.

27. Challenges remain in the State's ability to supervise private security companies. According to the General Directorate of Private Security Services (DIGSSP), of 182 companies registered under the law on private security services (decree 52-2010), 59 do not comply with its provisions. The number of private security agents (45,258) is superior to that of the national police. The Directorate furthermore reports that, in 2017, 76,557

[19] Information received by OHCHR from INACIF for January-October 2017.

[20] See OHCHR, "Respeto de los derechos humanos" (see footnote 10).

weapons of private security companies were registered. It conducted 185 supervisions during the reporting period, more than in any other previous year. The fact that some private security companies refuse the supervision of the Directorate, for example by barring access to its agents wishing to conduct inspections, filing injunctions or not complying with sanctions, is a cause for concern.

28. Incarceration continued to be the prioritized response to insecurity, as was pretrial detention (accounting for 51.3 per cent of the penitentiary population) (see also A/HRC/34/3/Add.1, para. 32). The deplorable conditions of detention (345 per cent of overcrowding in women's prisons and 227 per cent in men's prisons),[21] which are aggravated by corruption, contribute to human rights violations, including of the rights to life (20 violent deaths and 15 deaths by illness were reported by INACIF in 2017) and to physical integrity, and sexual violence.

29. According to the Inter-American Commission on Human Rights, conditions in juvenile detention centres in Guatemala amount to inhuman and degrading treatment.[22] In 2017, three riots broke out in these centres following inmates' complaints of mistreatment and demands for improvement in basic living conditions.

C. Rights of indigenous peoples and Afro-descendants

30. Indigenous peoples have continued to defend their rights, including through judicial procedures. The Constitutional Court consolidated its jurisprudential trends regarding rights to bilingual and intercultural education (file 3100-2014), consultation (file 1798-2015 and consolidated files 90-2017, 91-2017 and 92-2017; files 3120-2016 and 4488-2015), lands and territories (file 121-2014) and traditional legal systems (file 943-2017). Another positive development was the consultations conducted in their territories by the Government to develop a national plan of action for the International Decade people of African Descent and Garifuna (see A/HRC/28/3/Add.1, para. 56). Nevertheless, indigenous peoples and Afro-descendants generally face high levels of discrimination, inequality and exclusion, particularly women and girls (A/HRC/34/3/Add.1, para. 43). The Central American Institute for Fiscal Studies estimates that public spending for indigenous peoples is less than half of that of the rest of the population.[23]

31. There continued to be a lack of protection for the collective property of indigenous peoples, particularly affecting women in the case of land titling and access to credits.[24] This lack of protection and the continued fragmentation of ownership of indigenous communal lands have facilitated the negotiation of individual buy-sell agreements in the context of extractive and development projects, which has a negative impact on the integrity of communally held lands and collective decision-making. Importantly, one of the reparation measures ordered in the Sepur Zarco case (see A/HRC/34/3/Add.1, para. 7) was the guarantee of access to land for Q'eqchi' women.

32. Some progress was made in jurisprudence in 2017, for example in the protection of the collective property rights of indigenous peoples,[25] such as the restitution of ancestral lands to the Chorti community of Jocotan,[26] the Xinca community of San Francisco

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[21] Information received by OHCHR from the Office of the Ombudsman in November 2017. See also OHCHR, Procurador de los Derechos Humanos, *La aplicación de la prisión preventiva en Guatemala: un problema de derechos humanos*, 2016.

[22] OAS, "Preliminary Observations to the IACHR's On-Site Visit to Guatemala", 4 August 2017.

[23] Mark Peñate, Enrique Maldonado, *Inversión en pueblos indígenas*, ICEFI, 2017.

[24] See Segeplán, *Agenda 2030 para el desarrollo sostenible* (see footnote 2), p. 74.

[25] Cases supported by the Maya Programme (see www.gt.undp.org/content/guatemala/es/home/operations/projects/democratic_governance/programa-maya.html).

[26] Third Chamber of the Court of Appeals, Civil and Commercial Branch, injunction 01010-2016-00059.

Jumaytepeque[27] and the Q'eqchi community of San Pablo Chinaja.[28] In these cases, anomalous registration of collective lands led to land titles being placed in the hands of municipalities or private actors. In the case of the Chorti community, this registration facilitated the issuing by the municipality of a 50-year lease to a private actor over lands where a hydroelectric project is operating.[29]

33. Authorities at different levels continued to fail to meet their obligations of consultation with indigenous peoples with the aim of obtaining free, prior and informed consent. A "guide on minimum standards for consultations with indigenous peoples", issued by the Ministry of Labour in July, was not developed in accordance with a consultation process aligned with international standards, despite meetings held in distinct regions. Debates surrounding the right to consultation often mischaracterize it as merely a procedural formality or a mechanism of conflict resolution or impact mitigation, without ensuring the protection of human rights and the genuine participation of the indigenous peoples concerned. It is important to ensure the holding of consultations at the earliest stages of projects, during the environmental and social impact assessments. This would be in line with their obligations and also prevent the accumulation of judicial complaints and court judgments.

34. During the visit of the High Commissioner, representatives of indigenous peoples stressed that they were not opposed to development, but were against those who exploited their land under the pretext of development.[30] In cases of projects affecting indigenous peoples, the State seemed to prioritize its responses to security situations over attention to their impact on human rights, as in Ixquisis, Huehuetenango, where the presence of the State is limited to military and police bases. In some cases, companies provided certain benefits to groups within communities to garner support for projects, without respecting community decision-making processes, which led to internal divisions. Actions such as these have a negative impact on the feasibility of genuine consultation processes.

35. In May, the Constitutional Court issued a judgment regarding the lack of consultations held in the case of two hydroelectric projects in Santa María Cahabón, Alta Verapaz (files n.90-2017, 91-2017 and 92-2017). It ruled that the projects could continue while consultations were being held, despite the criticism of the indigenous peoples concerned.

D. Migration and internal displacement

36. The Migration Code, which came into force in April, reflects progress in the acknowledgement of the rights of migrants in transit, including equal access to services related to health, education and protection. Of concern, however, is the lack of full recognition of the principle of non-refoulement, the introduction of expedited return procedures without due process, and the introduction of fines for unauthorized presence (arts. 50, 51 and 65). The creation of the migration authority under the Code has been delayed. OHCHR received allegations of sexual violence, trafficking, arbitrary and prolonged detention, lack of access to legal advice and representation, and extortion by individuals and State authorities. Institutional support for migrants is insufficient, including for access to justice and for the protection of persons who have returned to Guatemala.

37. Structural problems, including discrimination, poverty, violence and other human rights violations, are displacing people within Guatemala and in some cases forcing them to migrate. The lack of land tenure security, especially for indigenous peoples, has led to patterns of forced evictions and their consequent internal displacement. Various types of discrimination and violence have also led to the internal displacement of people in search of

[27] Second Chamber of the Court of Appeals, Civil and Commercial Branch, file SGT 01009-2016-00199, injunction 139-2016.

[28] Second Chamber of the Court of Appeals, Civil and Commercial Branch, Injunction 01008-2016-00198.

[29] National Property Registry, Inscripción No. 2, Finca 1732, folio 29, libro 23, Chiquimula (2000).

[30] OHCHR, "Statement by UN High Commissioner" (see footnote 13).

protection, including youth, women, children, LGBTI persons, indigenous peoples, and small entrepreneurs victims of extortion. There is, however, no comprehensive policy in place to address the situation of displaced persons, including victims of forced evictions, as the State does not recognize the issue of internal displacement.

E. Rights of human rights defenders and journalists

38. In 2017, the Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEGUA), a non-governmental organization, registered 438 attacks against human rights defenders, including 12 deaths. The organization adds to the number of deaths the 41 girls who died in the Hogar Seguro Virgen de la Asunción (see para. 10 above).[31] Defenders most affected by attacks were those engaged in issues related to land, territories and natural resources. Women and LGBTI human rights defenders were subject to particular forms of attacks on the basis of their gender, sexual orientation or gender identity, which is not always taken into account in registration or protection responses. Impunity for attacks against human rights defenders and journalists continued.

39. OHCHR documented the largest number of attacks against human rights defenders in the departments of Guatemala, Alta Verapaz, Izabal, San Marcos, Huehuetenango, Chiquimula and Zacapa. It continued to receive complaints regarding attacks against defenders in the context of implementation of extractive and development projects. Such cases included the killing, in January, of Sebastián Alonso during a peaceful protest against the Pojom II hydroelectric project in Ixquisis, Huehuetenango; and, in May, of Carlos Maaz Coc during peaceful protests by local fishermen against the alleged pollution of Lake Izabal by the CGN mine in El Estor, Izabal. In both cases, failure to collect key evidence by State authorities in a timely manner may undermine investigations and thus hinder efforts to bring those responsible to justice.

40. The misuse of criminal procedures against human rights defenders – often those whose work could affect the economic interests of private entities – to prevent or sanction their work remains a matter of concern. OHCHR documented irregularities in criminal cases against defenders, including the issuance of arrest warrants based on insufficient evidence, lack of verification of witness testimony, excessive use of pretrial detention, and lack of compliance with due process norms and standards. This pattern was illustrated in several cases, including in the context of forced evictions in Alta Verapaz; the recuperation of traditional lands in Chiquimula; the denouncing of environmental contamination in Izabal; and the development of hydroelectric projects in Huehuetenango and San Marcos.

41. Progress was made in the development of a public policy on the protection of human rights defenders, spearheaded by the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH), with the participation of civil society. The need to strengthen the protection mechanisms of the Personal Protection and Security Division of the National Civil Police remains, through better registration and tracking of cases, increased variety and flexibility of protection measures, monitoring, evaluation and consultation with human rights defenders before protection measures are lifted, and adequate funding, to ensure vehicles and fuel for police patrols. Recognition by the State of the legitimate work of human rights defenders is also essential to enhance their protection, as is the strengthening of the Unit for the Analysis of Attacks against Human Rights Defenders of the Ministry of the Interior.

42. Given the ongoing concentration of media ownership by a few companies, independent media outlets and journalists continued to be subjected to attacks and threats, including from false social media accounts. In 2017, the Office of the Attorney General registered 93 attacks against journalists, including four killings;[32] this number includes attacks against journalists reporting on corruption and impunity. At the local level, organized crime and local authorities allegedly involved in corruption have attempted to

[31] See www.udefegua.org.

[32] Information received by OHCHR from the Office of the Attorney General for January-October 2017.

silence journalists.[13] In October 2017, a court for high-risk crimes issued a judgment concerning the murder of two journalists in Mazatenango, Suchitepéquez in 2015. The immunity of the alleged mastermind, a member of Congress, was finally lifted in November 2017 (A/HRC/31/3/Add.1, para. 39).

F. Violence against women

43. Violence against women remains a grave problem in Guatemala, as shown by the large number of violent deaths of women reported by INACIF (see para. 22 above). In its concluding observations on the combined eighth and ninth periodic reports of Guatemala (CEDAW/C/GTM/CO/8-9), the Committee on the Elimination of Discrimination against Women emphasized the persistence of discriminatory stereotypes of women, "which contributes to the perpetuation of high levels of violence" and exclusion, including in access to justice.

44. In 2017, the Office of the Attorney General registered 14,750 complaints of violence against women. The specialized courts for femicide registered 6,364 cases (an increase of 13 per cent over 2016). These resulted in 2,181 judgments (24 per cent more than in 2016), including 1,647 convictions and 534 acquittals. In 2017, a secretariat for women's affairs was established in the Office of the Attorney General to monitor and implement gender policies. New specialized courts for femicide and violence against women were created in Chimaltenango. One serious concern, however, is the ongoing allocation of insufficient resources for the prevention of all forms of violence against women and the protection of victims, leading to a lack of funding for specialized shelters, such as the support centres for women victims of violence (CAIMUS).

45. An important development was the approval, in August, of reforms to the Civil Code prohibiting the marriage of children under 18 years (decree 13-2017) (see A/HRC/31/3/Add.1, para. 52). Pregnancy rates among girls remain very high (out of 52,288 births registered, 24,258 were from mothers under 18 years);[14] comprehensive measures that could address this issue, such as the elimination of barriers to information and the availability of adequate sexual and reproductive health services, including legal abortion services, have yet to be taken (see CEDAW/C/GTM/CO/8-9, para. 37).

G. Rights of the child

46. The child protection system is marked by serious deficiencies in preventing human rights abuses against children. The State favours the institutionalization of children over support by families and communities, which has a particularly negative impact on indigenous children, who are removed from their cultures, and children with disabilities, who are in effect segregated from society.

47. In the case of the Hogar Seguro Virgen de la Asunción shelter, authorities had failed to address allegations of psychological, physical and sexual violence reported by some children and their families. On 7 March, a large group of children fled the institution in protest at the abuses and poor living conditions. Following their capture by police, the 56 girls were more severely punished (locked in a smaller classroom) than the 43 boys. It allegedly took more than nine minutes for authorities to open the door after a fire broke out in the classroom, and 41 girls consequently died. In the ongoing legal case regarding the incident, one of the plaintiff organizations alleged torture, while the Office of the Attorney General filed charges, such as involuntary manslaughter and mistreatment of children.

48. One concern was the situation of more than 500 children, particularly children with disabilities, transferred from the institution following the incident, without adequate control

[13] See James L. Cavallaro et al, *Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression* (Washington, D.C., OAS, 2017).

[14] Information received by OHCHR from the Observatory of Sexual and Reproductive Rights and National Registry of Persons for January-September 2017.

by the State. Legal reforms are required to develop a comprehensive system to guarantee the rights of children.

H. Rights of LGBTI persons

49. LGBTI persons continued to face systemic discrimination and violence. In 2017, 15 cases of killing of transgender women, several in the context of extortion and violence by organized crime, were documented by the non-governmental organization OTRANS.[35] The State continued to record such cases as deaths of men, resulting in a lack of visibility of gender identity and sexual diversity, and hindering investigations and the development of preventive measures.

50. Discrimination based on sexual orientation was evident in bill 5272, "on the protection of life and family", submitted to Congress in March, which states that "no one is obligated to accept conduct and practices that are not heterosexual as normal". In November, bill 5395, on "the gender identity of transgender persons", was presented for the full recognition of gender identity. Both bills were still under consideration as at December 2017.

51. The Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (see para. 41 above), together with civil society organizations, has been developing a public policy on LGBTI persons. In November, on the occasion of his visit to Guatemala, the High Commissioner and the Ombudsman launched the national Free and Equal campaign for LGBTI equality.

I. Rights of persons with disabilities

52. Persons with disabilities account for 10 per cent of the population, and women tend to be more affected by disability than men.[36] Bill 5125 on the rights of persons with disabilities was discussed in Congress, but not approved. Effective measures have not been developed to guarantee the inclusion of persons with disabilities in the community, including access to reproductive health services for women, education and employment. The Government has not established national mechanisms to follow up on the Convention on the Rights of Persons with Disabilities (see CRPD/C/GTM/CO/1, para. 77).

53. Although some of the measures requested by the Inter-American Commission on Human Rights regarding the psychiatric institution Federico Mora (MC 370/12) have been implemented (see A/HRC/31/3/Add.1, para. 28 and A/HRC/34/3/Add.1, para. 34), it is essential also that the institutional reforms recommended by the Committee on the Rights of Persons with Disabilities proceed, including the establishment of an independent mechanism to monitor institutions for persons with disabilities (CRPD/C/GTM/CO/1, para. 44).

J. Economic and social rights

54. During his visit to Guatemala, the High Commissioner highlighted the need for transformation to overcome structural exclusion, inequality and discrimination. The national census to be conducted in 2018 is potentially an important step in the identification of inequalities on the basis of disaggregated information, particularly with regard to women, indigenous peoples, Afro-descendants, persons with disabilities and children. One of the challenges when conducting the census will be determining the percentage of the indigenous population, which (depending on sources) varies between 40 and 60 per cent. Information collected through the census could facilitate the incorporation of a human rights-based approach into all policies in order to leave no one behind.

[35] Information received by OHCHR from OTRANSfor January-November 2017.

[36] Consejo Nacional para la Atención de las Personas con Discapacidad (CONADI), Informe de la II Encuesta Nacional de Discapacidad en Guatemala: ENDIS 2016, p. 5.

55. A more substantial commitment by the private sector to human rights could also strengthen the State's capacity and resources to address existing challenges. Following his visit, the High Commissioner highlighted the need for companies to ensure respect for human rights and due diligence in all their actions, and was encouraged that an emerging group was open to working to that end.[37]

1. Land and water

56. Guatemala is one the most unequal countries in Central America in terms of land distribution.[38] According to the Secretariat of Agrarian Affairs, 766 land conflicts had been registered as at October 2017.

57. Land conflicts include incidents of forced evictions without resettlement plans. In some cases, communities were displaced without the opportunity to demonstrate potential property rights over lands from which they were evicted. As at December 2017, in Peten, nine communities living in the Laguna del Tigre protected area were at imminent risk of being evicted, purportedly in order to protect the environment. Activities conducted by private companies within that area were, however, permitted to continue.

58. The Government is developing a policy on human settlements in protected areas. One good practice is the agreement signed in 2016 between the National Commission on Protected Areas (CONAP) and the indigenous Q'eqchi' community of Paso Caballos (Laguna del Tigre), allowing the latter to remain on the land under certain conditions, including controls over agricultural burning during the dry season and immigration.

59. No progress WAS made in the development of a national water law (see A/HRC/34/3/Add.1, para. 66), and the State continued to fail to guarantee domestic water use, including in the context of competing commercial exploitation. Some 40 per cent of homes do not have access to an improved drinking water source.[39] The environmental impact of projects affecting water resources is assessed for sustainability on a project by project basis, but does not take into account the aggregate impact of multiple projects on the same river, such as in the Cahabón, Xacbal, Chixoy or Jute rivers.

60. In 2017, the Office of the Attorney General registered 1,146 complaints related to environmental protection and natural resources; 56 per cent of the cases were dismissed, while 16 per cent were resolved through a legal measure similar to a plea deal. In most cases, the participation and agreement of affected communities, the proportionality of reparation measures or guarantees of non-recurrence were not considered in the resolutions. The case of the alleged contamination of La Pasión river in Sayaxché, Petén by the palm oil company REPSA was still pending a decision (see A/HRC/31/3/Add.1, para. 62).

2. Labour and social security

61. The amendments made to the Labour Code in March (decree 007-2017) were a positive development, as they restored the power of the Inspectorate General of Labour to sanction employers in the event of violation of labour rights, and aim at strengthening transparency and compliance with labour standards.

62. Many challenges nonetheless remain in ensuring access to decent work. Of the total working age population, 61.73 per cent are economically active; 64.8 per cent are men, 35.2 per cent are women, while 68.8 per cent work in the informal sector.[40] The agriculture and manufacturing sectors are the largest employers, providing 42.6 per cent of all jobs.[41]

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[37] OHCHR, Statement by the UN High Commissioner" (see footnote 13).

[38] Insituto Nacional de Estadistica, República de Guatemala: Encuesta Nacional de Condiciones de Vida 2014: Principales resultados, December 2015, p. 19.

[39] Ministerio de Salud Pública y Asistencia Social, Instituto Nacional de Estadistica, Secretaria de Planificación y Programación de la Presidencia, Informe Final : VI Encuesta Nacional de Salud Materno Infantil 2014-2015, Guatemala, January 2017.

[40] Insituto Nacional de Estadistica, Encuesta Nacional de Empleo e Ingresos, ENEI 1-2016, p. 21.

[41] Ibid., p. 24.

Despite a minimum wage of $383.46,[42] the national average salary is $290.32 per month, which does not cover the "basic basket".[43]

63. According to the Guatemalan Social Security Institute (IGSS), only 22.9 per cent of workers in the formal sector are affiliated, while 17,000 employers do not meet their financial obligations with the Institute.[44] An emblematic case is the San Gregorio Piedra Parada plantation, where former workers have no social security owing to their former employer's failure to pay the required contributions. In July, the Ministry of Labour stated before Congress that "IGSS was not fulfilling its obligations and should file a criminal case against the San Gregorio farm for non-compliance with social security payments" (file 014-2016). In June, 72-year-old Eugenio Lopez Lopez, an ex-worker of the farm, was killed during demonstrations demanding due retirement benefits (see A/HRC/34/3/Add.1, para. 42).

64. The situation of people employed in the domestic sector (estimated at 200,000), most of whom are indigenous women, is a serious concern.[45] Most domestic employees are hired informally and are not legally entitled to a working schedule, limited working hours, weekly rest, public holidays or the payment of benefits.

3. Health and food

65. Only 3.15 per cent of gross domestic product is allocated to the health sector.[46] Despite the initiation of intercultural dialogues,[47] the health-care system has struggled to integrate the work of indigenous midwives, who provide indispensable comprehensive maternal health-care for indigenous women and communities, as recognized by the Constitutional Court.[48] Indigenous midwives take care of at least 34 per cent of all births in Guatemala.[49]

66. The chronic malnutrition of children remains a major issue. According to information provided by the Food and Nutritional Security Secretariat, in 2017 (up until week 51), 111 deaths of children under 5 years of age due to chronic malnutrition were registered, although the actual number is probably much higher. In August, Mavelita Interiano Amador, a Maya Chorti child, died from malnutrition. She had been one of five complainants in a 2016 case before the Constitutional Court relating to chronic malnutrition among children in Camotán, Chiquimula, and the Court had ordered protection measures for her. The case demonstrates the serious shortcomings in the State's response to structural problems contributing to chronic malnutrition (see A/HRC/34/3/Add.1, para. 75).

IV. Activities of the Office of the High Commissioner in Guatemala

67. OHCHR conducted more than 70 missions in Guatemala to monitor the situation of human rights. In November and December, it undertook visits to seven departments, during which it held 172 meetings involving 1,614 people. Throughout the year, OHCHR, in coordination with the National Civil Police and the Ombudsman, deployed teams to observe demonstrations.

68. The Office provided technical advice to Congress and civil society on international human rights standards relating to bills on the protection of life and family; sexual

[42] Ministerio de Trabajo y prevision Social, Salario Mínimo 2018, available at www.mintrabajo.gob.gt/index.php/salariominimo.html.

[43] Instituto Nacional de Estadística, Encuesta Nacional (see footnote 40), p. 39.

[44] Instituto Guatemalteco de Seguridad Social, Oficio DAE-580-2017.

[45] Instituto Nacional de Estadística, Encuesta Nacional (see footnote 40), p. 57.

[46] See Segeplan, *Agenda 2030 para el desarrollo sostenible* (see footnote 2), p. 92.

[47] Case supported by the Maya Programme.

[48] Constitutional Court, file 1380-2017, p. 11, 30 August 2017.

[49] Instituto Nacional de Estadística, Encuesta Nacional de Condiciones de Vida, 2014, Tomo I, January 2016, p. 172.

education; the national system for the protection of children and adolescents; and reforms to laws on injunctions, the judicial career and the Criminal Procedure Code (relating to pretrial detention, juvenile justice and the acceptance of charge). It provided technical assistance on, and observed, the election of the director of INACIF, the Ombudsman and rapporteurs of the National Office for the Prevention of Torture.

69. OHCHR held training sessions on human rights standards for staff members of the Office of the Attorney General, judges, magistrates and legal clerks, including of the Supreme Court of Justice and the Constitutional Court. It also conducted, with the regional office of OHCHR in Central America, a virtual course on the Latin American protocol for the investigation of cases of femicide.

70. The Office held training workshops on a human rights-based approach to the implementation of the Sustainable Development Goals and human rights indicators for the Secretariat for Planning and Programming of the Office of the President, the National Statistics Institute, the Ombudsman, indigenous peoples, members of civil society and the United Nations country team. With the United Nations Population Fund, OHCHR supported the National Statistics Institute in incorporating a rights-based approach to the 2018 national population and housing census, and facilitated coordination with indigenous and Afro-descendant people in that context.

71. OHCHR finalized the implementation of the second phase of the Maya Programme, financed by the Government of Norway. It provided technical assistance to the Government and indigenous peoples on 11 strategic litigation cases and follow-up to seven court rulings involving rights relating to transitional justice, land and resources, and bilingual intercultural education. OHCHR supported the drafting and publication of the policy of the Office of the Attorney General on access to justice for indigenous peoples, translated a child-friendly version of the Constitution into the Kaqchikel, Q'eqchi' and Mam languages, implemented a certificate programme on indigenous peoples' rights for judges, prosecutors and public defenders, and held a workshop with indigenous women human rights defenders on protection.

72. The Office facilitated space for dialogue with indigenous authorities on the rights of indigenous peoples, particularly with regard to access to justice, consultation, land and resources. It conducted a course on international standards on land, a healthy environment and indigenous peoples, with the participation of key government institutions, and provided assistance to the Presidential Commission against Discrimination and Racism against Indigenous Peoples in Guatemala (CODISRA) in the formulation of the national plan of action for the International Decade for People of African Descent and Garífuna people.

73. OHCHR continued its implementation of a project on the protection of human rights defenders, financed by the European Union. It promoted protection measures with relevant authorities in cases of attack against human rights defenders, in coordination with victims; attended meetings of the Unit for the Analysis of Patterns of Attacks against Human Rights Defenders; provided technical assistance to develop a public policy on attacks against human rights defenders; held a workshop on criminalization with human rights defenders; and worked with the Office of the Attorney General on an internal protocol to avoid the misuse of criminal procedures against defenders.

74. In the case of the Hogar Seguro de la Virgen de Asunción shelter, OHCHR issued a joint report with the United Nations Children's Fund (UNICEF);[50] facilitated the visit of international experts to Guatemala; advised State actors and civil society on structural reforms to the child welfare system; and monitored criminal trials related to the case, as well as the situation of children transferred from the institute.

75. With the Office of the United Nations High Commissioner for Refugees (UNHCR), the Ombudsman and the Rafael Landívar University, OHCHR carried out a study on forced

[50] OHCHR and UNICEF, Informe sobre la crisis del Hogar Seguro Virgen de la Asunción y al protección de la niñez y la adoscencia en el corto y largo plazo, 14 March 2017.

internal displacement due to violence. It also co-led a United Nations country team protection group.

76. OHCHR assisted the Ministry of Health in the establishment of a human rights unit; provided technical assistance to the Ministry of Labour in the development of a protocol of procedures for the labour inspectorate and in updating regulations on occupational health and safety; together with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the International Labour Organization (ILO), it launched a campaign to support ratification of the ILO Domestic Workers Convention (No. 189); made recommendations for the National Commission on Protected Areas on the development of a policy on human settlements in protected areas in Petén; and continued to assist the Ombudsman and civil society in guaranteeing the right to food.

77. OHCHR presented the annual report of the High Commissioner submitted to the Human Rights Council (A/HRC/34/3/Add.1) in various regions, and promoted human rights through press releases, interviews, editorials and social media. It also launched the Free and Equal campaign.

78. OHCHR implemented a project on countering discrimination and combating impunity, funded by the Government of Sweden. With other United Nations entities, it contributed to peacebuilding fund projects on human rights defenders, justice for women and transitional justice.

V. Cooperation with regional and international human rights mechanisms

79. OHCHR assisted the Ministry of External Relations and COPREDEH in developing a system to monitor the implementation of recommendations by international human rights mechanisms. It also assisted the Government, civil society and the United Nations country team during the review of Guatemala before the Committee on the Elimination of Discrimination against Women and during the universal periodic review.

80. OHCHR assisted the Inter-American Commission on Human Rights during its visit to Guatemala in August, and joined its mission to the Laguna Larga community. OHCHR supported the rapporteurs on human rights defenders and on freedom of expression of the Commission in the organization of a forum on the protection of human rights defenders and journalists, and standards for free and inclusive radio. It also supported the presentation of the report of the Commission on high-risk areas to carry out journalism.[51]

81. In November, Guatemala participated in the third cycle of the universal periodic review and received 205 recommendations. While accepting 150, it noted 55, including those relating to the abolition of the death penalty, enforced disappearances, constitutional reform of the justice system, the misuse of criminal procedures against human rights defenders, sexual and reproductive health and education, and sexual diversity. The State presented its latest periodic report to the Committee on the Elimination of Racial Discrimination (CERD/C/GTM/16-17).

VI. Recommendations

82. **The United Nations High Commissioner for Human Rights urges the authorities of Guatemala to implement his previous recommendations as well as those of United Nations human rights mechanisms, in consultation with civil society. In particular, the High Commissioner:**

(a) Urges Congress and the executive to advance with structural reforms and policies to address exclusion, discrimination and inequality, in particular for indigenous peoples, Afro-descendants, persons with disabilities, women, children,

[51] James L. Cavallaro et al, *Silenced Zones: Highly Dangerous Areas* (see footnote 33).

migrants, and displaced and LGBTI persons, in consultation with the groups affected, including through the implementation of the Sustainable Development Goals and relevant recommendations of regional and international human rights mechanisms;

(b) Calls upon the National Statistics Institute to ensure the collection of disaggregated data and a human rights, gender and multicultural approach in the conduct of the national census;

(c) Calls upon the State and other sectors, including the private sector and the media, to promote and support efforts to protect human rights, and to combat discrimination and inequality, to consolidate a culture of democracy and human rights;

(d) Urges the authorities to strengthen the fight against impunity and corruption, including by ensuring that the election of the new Attorney General respects the principles of objectivity, transparency, publicity and suitability;

(e) Urges all State institutions and the private sector to respect judicial independence and to ensure that the justice system authorities can fulfil their obligations without being subject to pressure, threats or attacks;

(f) Urges Congress to adopt critical pending constitutional and legal reforms, including to the law on elections and political parties;

(g) Urges the judiciary to implement the law on the judicial career to create the conditions for an independent justice system;

(h) Calls upon the Ministry of the Interior to develop measures to strengthen the professional police career and internal protocols of conduct, including through amendments to the law on the National Civil Police;

(i) Encourages the Ministry of the Interior and the Ministry of Defence to finalize the withdrawal of the military from citizen security tasks, under appropriate supervision;

(j) Urges the State to guarantee the rights of indigenous peoples, including the protection of their lands and natural resources, collective intellectual property, and traditional knowledge and cultural expressions;

(k) Urges Congress to consult with indigenous peoples regarding any law or regulation on the right to consultation and prior, free and informed consent, in accordance with international standards;

(l) Encourages the executive to develop measures to address protection needs and access to justice for migrants, to assist victims of violence at risk of displacement, and to adopt a comprehensive policy to address internal displacement;

(m) Calls for the implementation of a rights-based approach to prevent forced evictions that are incompatible with international standards, including basic principles and guidelines on development-based evictions and displacement;

(n) Urges the State to guarantee the human rights of children, preventing their institutionalization, prioritizing the best interests of the child, and incorporating a culturally sensitive approach into the child protection system;

(o) Calls upon the Government to urgently take measures to support survivors and families affected in the Hogar Seguro Virgen de la Asunción case, in particular by providing psychological, legal and economic assistance;

(p) Recommends that the Office of the Attorney General develop an internal protocol to prevent the misuse of criminal procedures against human rights defenders;

(q) Urges the Office of the Attorney General to allocate sufficient human and financial resources to its human rights office to effectively investigate and sanction cases of attacks against human rights defenders and journalists;

(r) Urges the Ministry of the Interior to ensure the effective implementation of protection measures for human rights defenders, incorporating gender and culturally sensitive approaches in risk assessments;

(s) Urges the Government to adopt the public policy on the protection of human rights defenders;

(t) Urges the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights to adopt a public policy on the rights of LGBTI persons and the authorities to develop measures to prevent killings and other attacks against transgender persons, including through prompt and thorough investigation, and the recognition of gender identity.